



# California Fair Political Practices Commission

February 10, 1988

David Ryal, Manager  
Bellflower Chamber of Commerce  
9729 Flower Street  
Bellflower, CA 90706

Re: Your Request for Advice  
Our File No. A-88-042

Dear Mr. Ryal:

You have requested written confirmation of previous telephone advice from this agency regarding the Bellflower Chamber of Commerce's newspaper.

## QUESTION

Are there any restrictions on the publication and distribution of the chamber's newspaper under the provisions of the Political Reform Act (the "Act")<sup>1/</sup>?

## CONCLUSION

The provisions of the Act which restrict the mailing of certain newsletters at public expense do not affect mailings produced and distributed by private entities such as the chamber.

## FACTS

The Bellflower Chamber of Commerce periodically publishes the Bellflower Community News. The paper is contracted out by the chamber to a publisher who carries all financial responsibilities for the publication. The publication is entirely self-funded from advertising revenues. The chamber has a contract with the City of Bellflower for promotion of the city. This contract is for such things as sidewalk sales and other events. Publication of the newspaper is not included.

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

On occasion, the newspaper mentions councilmembers and may include their photographs. These are used in the paper's news accounts. The chamber is a nonprofit, private entity.

#### ANALYSIS

Government Code Section 89001 provides as follows:

89001. Newsletter or Mass Mailing. No newsletter or other mass mailing shall be sent at public expense by or on behalf of any elected officer to any person residing within the jurisdiction from which the elected officer was elected, or to which he or she seeks election, after the elected officer has filed either of the following:

(a) The nomination documents, as defined in Section 6489 of the Elections Code, for any local, state, or federal office to be voted upon at an election governed by Chapter 5 (commencing with Section 6400) of Division 6 of the Elections Code.

(b) The last document necessary to be listed on the ballot as a candidate for any local, state, or federal office to be voted upon at an election not governed by Chapter 5 (commencing with Section 6400) of Division 6 of the Elections Code.

The section has three requirements which must be met before its prohibitions apply. First, the mailing must be a "mass mailing" (i.e., 200 or more pieces of mail sent in a calendar month). (Section 82041.5.) Second, the mailing must be "at public expense". Third, the mailing must be sent "by or on behalf of" an elected officer during the period in which the officer is a candidate for election.

Only if all three of these criteria are met does the section apply. In the case of the Bellflower Chamber of Commerce, the "public expense" criterion is not met. The chamber is not a public entity merely because it receives some public moneys. (In re Leach (1978) 4 FPCC Ops. 48, copy enclosed.) Consequently, unless the city expressly funds the production and distribution of the newspaper, we conclude that it is not sent at public expense. Therefore, in your situation Section 89001 is inapplicable.

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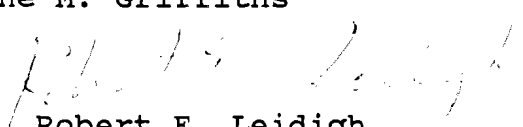
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The Commission is currently considering the adoption of a regulation to clarify the application of Section 89001. I enclose copies of four alternatives for your review and comment. The hearing will be held in Sacramento on April 5.

I trust that this adequately responds to your request for advice. Should you have questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths

  
By: Robert E. Leidigh  
Counsel, Legal Division

REL:jaj

Enclosure

# Bellflower Chamber of Commerce

9729 FLOWER STREET • BELLFLOWER, CALIFORNIA • TELEPHONE: (213) 867-1744

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January 18, 1988

Diane Griffith, General Counselor  
Fair Political Practice Commission  
Box 807  
428 J St. Suite 800  
Sacramento, CA 95804

Dear Ms. Griffith,

The Bellflower Chamber of Commerce publishes a newspaper called the "Bellflower Community News." The paper is contracted out by us to a publisher who carries all financial responsibilities of the publication.

The reason for this letter is to see if there is any limitations on the straight matter we use in the newspaper.

The Chamber has a contract with the City of Bellflower for promotion. Our City Clerk was concerned that our paper might be classified as a City Newsletter which would prohibit us from running pictures or making mention of Councilmen that are up for re-election in April.

Our office called your Commission earlier asking for guidance on this issue. We talked with Bruce Roberk in Technical Assistance and Louise in another department. Both said that we are free to run news stories and photos that include incumbents since we are a separate organization and no City money is used for publishing the paper.

The Chamber, being non-profit, doesn't take public stands on candidates or non-business related issues.

The Bellflower Chamber would like to request a written confirmation of the information we were given over the phone.

Thank you for your time.

Sincerely,



David Ryal,  
Manager



# California Fair Political Practices Commission

January 22, 1988

David Ryal  
Bellflower Chamber of Commerce  
P.O. Box 1236  
Bellflower, CA 90706

Re: 88-042

Dear Mr. Ryal:

Your letter requesting advice under the Political Reform Act was received on January 21, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths  
General Counsel

DMG:plh